

ESTTA Tracking number: **ESTTA145537**

Filing date: **06/13/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	F&C Management Limited
Granted to Date of previous extension	06/13/2007
Address	Exchange House, Primrose Street London, EC2A 2NY UNITED KINGDOM
Attorney information	Terrence J. McAllister Ohlandt, Greeley, Ruggiero & Perle, LLP One Landmark Square, 10th Floor Stamford, CT 06901 UNITED STATES trademark@ogrp.com, tmcallister@ogrp.com, jscepanski@ogrp.com Phone:203-327-4500

### Applicant Information

Application No	78916264	Publication date	02/13/2007
Opposition Filing Date	06/13/2007	Opposition Period Ends	06/13/2007
Applicants	<p>Kutler, Veena 6701 Democracy Boulevard, Suite 505 Bethesda, MD 20817 UNITED STATES</p> <p>Simon, Annette 6701 Democracy Boulevard, Suite 505 Bethesda, MD 20817 UNITED STATES</p> <p>Rapacz, Tanya 6701 Democracy Boulevard, Suite 505 Bethesda, MD 20817 UNITED STATES</p> <p>Smith, Lisette 6701 Democracy Boulevard, Suite 505 Bethesda, MD 20817 UNITED STATES</p>		

### Goods/Services Affected by Opposition

Class 036.

All goods and services in the class are opposed, namely: Financial and investment planning, financial

and investment management, financial analysis and consultation, investment advisory and consultation
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## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Common law prior use

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3047451	Application Date	10/15/2003
Registration Date	01/24/2006	Foreign Priority Date	08/06/2003
Word Mark	F&C GARNET FUND		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Downloadable publications in electronic form provided on-line via the Internet and other interactive electronic platforms, all relating to funds, fund charting and provision of fund prices</p> <p>Class 036. First use: Provision of hedge funds; mutual funds; investment funds; cash funds; private equity funds; off-shore funds; provision of derivative funds; pension fund services; investment fund managers; risk altered fund products; investment funds for charities; tailoring of funds for investors; closed-end fund investment services; closed-end fund vehicles; provision of data relating to investment fund performances; information provided on-line via the Internet and other interactive electronic platforms in relation to all of the aforesaid funds, funds charting and provision of fund prices</p> <p>Class 042. First use: Hosting of web-sites and other interactive electronic platforms for others in relation to hedge funds, mutual funds, investment funds, cash funds, private equity funds, off-shore funds, provision of derivative funds, pension fund services, investment fund managers, risk altered fund products, investment funds for charities, tailoring of funds for investors, closed-end fund investment services, closed-end fund vehicles, provision of data relating to investment fund performances, information provided on-line via the Internet and other interactive electronic platforms all relating to all of the aforesaid funds, funds charting and provision of fund prices</p>		

Attachments	76555070#TMSN.gif ( 1 page )( bytes ) 78916264.Notice of Opposition.pdf ( 5 pages )(182446 bytes )
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Signature	/OGRP-CNR-TJM-JJS/
Name	Terrence J. McAllister
Date	06/13/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 78/916,264, GARNET GROUP  
Published in the *Official Gazette* on February 13, 2007

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F&C Management Limited,

Opposition No.:

Opposer,

vs.

Veena Kutler, Annette Simon, Tanya Rapacz,  
Lisette Smith,

Applicants.

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NOTICE OF OPPOSITION

F&C Management Limited (“Opposer”), a private limited company formed under the laws of the United Kingdom, having an office at Exchange House, Primrose Street, London EC2A 2NY, United Kingdom, believes it will be damaged by the issuance of a registration to Veena Kutler, an individual, having an address at 6701 Democracy Boulevard, Suite 505, Bethesda, Maryland 20817, U.S.A., Annette Simon, an individual, having an address at 6701 Democracy Boulevard, Suite 505, Bethesda, Maryland 20817, U.S.A., Tanya Rapacz, an individual, having an address at 6701 Democracy Boulevard, Suite 505, Bethesda, Maryland 20817, U.S.A., and Lisette Smith, an individual, having an address at 6701 Democracy Boulevard, Suite 505, Bethesda, Maryland 20817, U.S.A. (collectively referred to as “Applicants”), for Application Serial No. 78/916,264 for the claimed mark GARNET GROUP. Accordingly, Opposer hereby opposes said mark under provisions of Section 13 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. §1063.

As grounds for opposition, it is alleged that:

1. Opposer is one of the leading investment firms in Europe, as well as one of the largest investment firms quoted on the London Stock Exchange. Opposer has managed money for individuals and institutions for more than 130 years and currently manages approximately £131 billion (approximately 228,228,641,294 USD) in investment funds.

Opposer also offers a wide variety of financial services in the U.S.

2. Opposer owns U.S. Trademark Registration No. 3,047,451 for F&C GARNET FUND (“Opposer’s Mark”), covering the following goods and services:

Class 9: Downloadable publications in electronic form provided on-line via the Internet and other interactive electronic platforms, all relating to funds, fund charting and provision of fund prices;

Class 36: Provision of hedge funds; mutual funds; investment funds; cash funds; private equity funds; off-shore funds; provision of derivative funds; pension fund services; investment fund managers; risk altered fund products; investment funds for charities; tailoring of funds for investors; closed-end fund investment services; closed-end fund vehicles; provision of data relating to investment fund performances; information provided on-line via the Internet and other interactive electronic platforms in relation to all of the aforesaid funds, funds charting and provision of fund prices;

Class 42: Hosting of web-sites and other interactive electronic platforms for others in relation to hedge funds, mutual funds, investment funds, cash funds, private equity funds, off-shore funds, provision of derivative funds, pension fund services, investment fund managers, risk altered fund products, investment funds for charities, tailoring of funds for investors, closed-end fund investment services, closed-end fund vehicles, provision of data relating to investment fund performances, information provided on-line via the Internet and other interactive electronic platforms all relating to all of the aforesaid funds, funds charting and provision of fund prices.

3. Applicants applied on June 24, 2006 to register the mark GARNET GROUP (“Applicants’ Mark”) for “Financial and investment planning, financial and investment management, financial analysis and consultation, investment advisory and consultation” in International Class 36.

4. Opposer claims priority for the mark F&C GARNET FUND over Applicants' GARNET GROUP Mark by virtue of having filed its application for the F&C GARNET FUND Mark on October 15, 2003 (with a priority date of August 6, 2003) and having received a U.S. trademark registration for the F&C GARNET FUND Mark on January 24, 2006, before Applicants filed their application for the GARNET GROUP Mark on June 24, 2006.
5. Opposer also claims use of the mark F&C GARNET FUND prior to the application filing date of Applicants' GARNET GROUP Mark.
6. The mark GARNET GROUP, which Applicants seek to register, is so similar to Opposer's Mark in sight, sound, overall appearance, and commercial impression, as to be likely, when used on or in connection with the services covered under Applicants' Mark to cause confusion, or to cause mistake, or to deceive consumers and members of the industry into believing that the services covered under Applicants' Mark originate from, are sponsored by, or are otherwise authorized by Opposer, when, in fact, they are not.
7. The services covered under Applicants' Mark, namely, "Financial and investment planning, financial and investment management, financial analysis and consultation, investment advisory and consultation" are similar to those covered in Opposer's Mark.
8. Upon information and belief, the services associated with Applicants' GARNET GROUP Mark will be advertised, marketed, promoted, and provided through the same channels of trade and will be advertised in the same types of publications as Opposer's Mark, and sold to the same classes of the purchasing public for use by or on the same consumers as Opposer's services.

9. Upon information and belief, the services associated with Applicants' GARNET GROUP Mark would be offered to and used by some of the same customers and consumers who would also be in the market for and use the services associated with Opposer's Mark.
10. Registration of Applicants' GARNET GROUP Mark would be a source of damage to Opposer because consumers and members of the industry are likely to attribute the source or sponsorship of Applicants' services to Opposer.
11. Registration of Applicants' GARNET GROUP Mark would be a source of damage to Opposer because registration would confer upon Applicants statutory presumptions to which Applicants are not entitled in view of Opposer's priority in regard to its registration of its F&C GARNET FUND Mark with the USPTO and prior use of the F&C GARNET FUND mark in commerce.

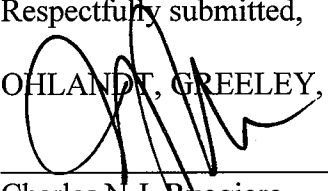
WHEREFORE, Opposer prays that registration of Application No. 78/916,264 be denied and that this opposition be sustained in favor of Opposer on the merits, with prejudice, and without leave to refile.

Please direct all correspondence to the undersigned at the address listed below.

Respectfully submitted,

OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.

Date: June 13, 2007



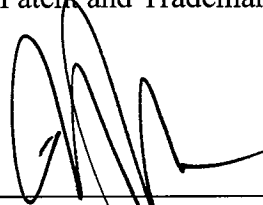
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File No.: 2152.019USL1

ATTORNEYS FOR OPPOSER

CERTIFICATE OF FILING

The undersigned hereby certifies that a copy of the foregoing "Notice of Opposition" was filed electronically through the Electronic System for Trademark Trial and Appeals ("ESTTA") located on the U.S. Patent and Trademark Office's website at <uspto.gov> on this 13<sup>th</sup> day of June, 2007.

A handwritten signature in black ink, appearing to read 'T. McAllister', written over a horizontal line.

Terrence J. McAllister  
ATTORNEY FOR OPPOSER